

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

FILED

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**CLERK US DISTRICT COURT
WESTERN DISTRICT OF TEXAS**

BY 

DEPUTY

**HARRIS O'MALLEY d/b/a Doctor Nerd Love
and d/b/a www.DoctorNerdLove.com,
Plaintiff,**

-vs-

Case No. A-13-CA-1019-SS

**YASHAR HEDAYAT a/k/a Yashar Ali and d/b/a
Goplin Group and d/b/a
www.TheCurrentConscience.com,
Defendant.**

ORDER

BE IT REMEMBERED on this day the Court reviewed the file in the above-styled cause, and specifically, the "Plaintiff's Motion for Default Judgment Against Yashar Hedayat a/k/a Yashar Ali and d/b/a Goplin Group and d/b/a www.TheCurrentConscience.com, and Request for Attorney's Fees and Costs" [#14 filed July 3, 2014], and thereafter, the Court enters the following:

This lawsuit was filed on November 25, 2013 through counsel Charles Hanor, Burnie Kray, and Serena Hanor Aldrich. At the time of filing, Serena Hanor Aldrich was not a member of the Western District of Texas and was so notified, but has subsequently filed an application and is therefore eligible to proceed as counsel of record. Bernie R. Kray is announced by Charles W. Hanor to no longer be counsel of record, but there has been no motion to withdraw nor order relieving Bernie R. Kray from any responsibilities in this case.

The lawsuit is basically for declaratory judgment and attorney's fees and costs that the plaintiff has not accomplished conduct to make him liable for violation of copyrights or unfair

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competition regarding the defendant. It is a negative declaratory judgment. On March 5, 2014, the Court, noting no proof of service filed, entered an order giving plaintiff's counsel until March 25, 2014 to obtain service in this case. Subsequently, counsel for the plaintiff requested an extension, and the Court entered an order granting an extension of time in which to serve the defendant in this case until April 25, 2014. On June 11, 2014 plaintiff, through counsel, requested the entry of a default judgment against the defendant Yashar Hedayat a/k/a Yashar Ali and d/b/a Goplin Group and d/b/a www.TheCurrentConscience.comm, representing service had been accomplished on the defendant Yashar Hedayat. On June 11, 2014 the Clerk erroneously entered a notice of default. Subsequently, on July 3, 2014, the plaintiff O'Malley filed a Motion for Default Judgment [#15]. After a review of the official file, it appears clear there is no evidence of appropriate or lawful service of process on Yashar Hedayat. In fact, there is an affidavit executed by Robert Hill, an investigator, dated March 20, 2014 indicating his inability to obtain service on the defendant Hedayat at three separate California addresses. Service is allegedly obtained in this case through certified mail, return receipt requested, but the receipt is dated December 9, 2013 and it cannot be determined who signed the receipt, but it was certainly not Yashar Hedayat. There appears to be nothing in the official file at the Clerk's Office which would indicate that Yashar Hedayat has been served or otherwise notified of the existence of this lawsuit and had an opportunity to respond. Therefore, in light of the record, the Court enters the following order:

IT IS ORDERED that the Motion for Default Judgment Against Yashar Hedayat a/k/a Yashar Ali and d/b/a Goplin Group and d/b/a www.TheCurrentConscience.comm is DENIED.

IT IS FINALLY ORDERED that plaintiff shall have an additional thirty (30) days in which to obtain new summons and attempt to serve Yashar Hedayat and/or his agent through the Federal Rules of Civil Procedure or by substituted service in the event an appropriate motion is filed and an order obtained.

SIGNED this the 15th day of July 2014.


UNITED STATES DISTRICT JUDGE